IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPELLANTS :	Naoaki YAMANAKA, et al.	CONFIRMATION NO.:	9790
SERIAL NUMBER :	10/774,629	EXAMINER:	KEEFER, Michael E.
FILING DATE :	February 10, 2004	ART UNIT:	2454
FOR :	PUSH NETWORK HAVING CONTENT IDENTIFYING PACKETS		

Appellants' Reply Brief
Under 37 C.F.R. § 41.41

Mail Stop Appeal Brief - Patents
Commissioner for Patents
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I.   **Introduction**

Pursuant to 37 C.F.R. § 41.41, this Reply Brief is being filed within two months of the Examiner's Answer mailed October 28, 2008 (hereinafter "Answer"). This Reply Brief responds to the new points that the Examiner has raised in the Answer.

II.   **Status of Claims**

Claims 1-11, 14-15, 21, and 25, which are presently on appeal, stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable by U.S. Patent No. 6,545,982 to Murthy et al. ("Murthy") in view of European Patent Application No. 0915598 to Bushmitch ("Busmitch").

III.   **Response to Examiner's Arguments**

In the Answer, the Examiner maintains that Murthy teaches "means within said information providing terminal for adding to the packet a content identifier or both the content identifier and a category identifier." [See, e.g., Answer, pg. 9]. In support of his argument, the Examiner asserts that "... Appellant is importing limitations from the specification into the claims." [Answer, pg. 10]. Appellant disagrees.

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Claim 1 specifically recites *"means ... for* adding to the packet a content identifier or both the content identifier and a category identifier." (emphasis added). Thus, claim 1 recites a "means-plus-function" limitation. Under 35 U.S.C. § 112, ¶ 6, the Examiner is required to interpret the means-plus-function limitations in light of and consistent with the written description of the invention in the application. *See In re Donaldson Co.*, 16 F.3d 1189, 29 USPQ2d 1845 (Fed. Cir. 1994).

Accordingly, the recitations regarding adding the content identifier or both the content identifier and a category identifier to the packet are not being construed to improperly import structural limitations from the specification. For example, according to one embodiment of Specification this "means" may be a content ID adder 3 (FIG. 1). [*See, e.g.*, Specification, pg. 21, lines 2-9 ("...content ID adder 3 is provided, this being means for adding to a packet a content identifier for identifying the content of the information held in that packet.")].

The Examiner also states that "... the Examiner is interpreting 'content identifier' broadly enough to include information identifying where the content is to be sent, but specifically is equating it to the information found in Col. 9 lines 42-44 in Murthy, such as priority." [Answer, pg. 10]. Appellant disagrees. The terms *"content* identifier" and *"category* identifier" (emphasis added) by their own language clearly denote the kind of information they identify. Moreover, claim 1 further recites that "the information provided by said information providing terminal is assigned a unique content identifier or both the unique content identifier and the category identifier for *identifying the category to which the content of the information in the packet belongs.*" (emphasis added). Thus, the Examiner is improperly interpreting the terms, "content identifier" and "category identifier," in contradiction, with the plain language of the claims.

In addition, the Examiner argues that the recitation "wherein the information provided by said information providing terminal is assigned a unique content identifier or both the unique content identifier and the category identifier for identifying the category to which the content of the information in the packet belongs" is merely an intended use of the data. [Answer, pg. 11]. Appellant disagrees.

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As noted above, the recitation imposes structural limitations on the content ID adder 3 (i.e., the means for adding information to the packet). For example, the content ID adder 3 is configured to add content identifiers and the category identifiers to the packet based on their contents.

Turning now to the cited reference, the bridge 1 in Murthy is simply not configured to do so. Rather, Murthy merely discloses modifying transmission information in the packet. [*See, e.g.*, Murthy, col. 9, lines 42-44]. Further, while Murthy may teach that the sub-field of the packet may include priority data. Murthy does not define what is meant by "priority," much less that the priority sub-field identifies the content or category of the information in the packet belongs, as the claims require.

Moreover, the Examiner continues to assert that the XMASK of Murthy is related to a category and/or a content of a packet. [*See* Answer, pgs. 12-13]. However, as previously pointed out on page 13 of the Appeal Brief, Murthy discloses that "XMASK 55 is simply a bit vector in which each bit *indicates a port 3* to which the packet 13 is to be dispatched." [Murthy, col. 11, lines 12-15 (emphasis added)].

Thus, the rejection of claims 1-11, 14-15, 21, and 25 under 35 U.S.C. § 103(a) over Murthy and Bushmitch is improper and should be withdrawn.
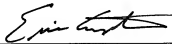
Conclusion

For at least the foregoing reasons, Appellants respectfully appeal to this Honorable Board to promptly reverse the rejection of claims 1-11, 14-15, 21, and 25, and to issue a decision in favor in Appellants, as all of the pending claims are in condition for allowance.

Date: December 19, 2008   Respectfully submitted,

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